

General Terms and Conditions

Applicable to every service, product or software provided by Datacenter Luxembourg S.A.

These General Terms and Conditions and the Specific Terms and Conditions shall be interpreted and applied together as a single instrument (the “Agreement”).

The Agreement between DCLUX and the Customer sets forth the legal rights and obligations governing DCLUX offering, provisioning and delivery of the Services and the Customer’s receipt and use thereof.

The Agreement in its entirety shall consist of: these General Terms and Conditions, the Order Form, each applicable Specific Terms and Conditions, where applicable the Service Level Agreement, the Access Agreement, any applicable additional Terms of Use and/or License pertaining to the software provided under this Agreement.

In the event of an inconsistency between a term or condition contained in any document(s) comprising the Agreement, including any incorporated attachments, appendices, exhibits or other documents, the order of precedence, from the most to the least controlling, shall be:

1. The Order Form properly executed by authorized representatives of both DCLUX and the Customer;
2. The applicable Specific Terms and Conditions, including any exhibits and the Service Level Agreement and
3. The General Terms and Conditions

THESE GENERAL TERMS AND CONDITIONS, AS WELL AS THE SPECIFIC TERMS AND CONDITIONS, MAY BE OBTAINED BY THE CUSTOMER AT ALL TIMES BY REQUESTING THEM TO DCLUX. THEY MAY BE MODIFIED BY DCLUX AT ANY TIME AS PERMITTED OR REQUIRED BY LAW. DCLUX SHALL PROVIDE THE CUSTOMER WITH AT LEAST FIFTEEN (15) DAYS PRIOR NOTICE OF ANY CHANGES THAT WOULD MATERIALLY AND ADVERSELY AFFECT THE CUSTOMER SO THAT THE CUSTOMER MAY ELECT TO DISCONTINUE THE SERVICE AND AVOID THE EFFECTS OF THE CHANGES. DCLUX NOTICE MAY BE DELIVERED BY: (1) A MESSAGE INCLUDED WITH THE INVOICE; (2) POSTAL MAIL; (3) PHONE CALLING AND SPEAKING TO CUSTOMER; OR (4) E-MAIL. THE CUSTOMER SHALL BE BOUND BY CHANGES AFTER THEY BECOME EFFECTIVE.

Language

This English version – or any other translation – is provided solely for informational purpose. Only the French version of the Agreement shall be binding upon the Parties. For the avoidance of doubt, only the French version shall apply and prevail in any and all interpretation, notably before a court.

Definitions

- Access Agreement means the agreement setting forth the acceptable use and behaviour expected from the Customer and/or their agents when entering into and using the Service within a Datacenter.
- Backup Service means the copying and storing of files and databases service offered by DCLUX as part of the Managed Hosting Services.
- Credit Note means a discount awarded to the Customer Invoice within the scope of the Service Level Agreement.
- Customer means a person, firm, corporation or any other entity that orders or uses the Service and is responsible for compliance with all the Customer obligations set forth in the Agreement, including the duty to pay for the Service.
- Customer Infrastructure means the servers, computers system and connecting lines and cables owned by the Customer and used within the scope of the Service.
- Database means both the database server software, and the database itself necessary to perform webhosting.
- Datacenter means the facility used to house computer systems owned, leased or licensed by DCLUX
- DCLUX means Datacenter Luxembourg SA, the limited company of Luxembourgish Law (R.C. Luxembourg B77.200) established at 2, rue Leon Laval L-3372 Leudelange, Grand Duchy of Luxembourg
- DCLUX Equipment means the computer systems, and all associated components owned, leased or licensed by DCLUX and which are made available to the Customer as part of the Services.
- DCLUX Network means the Internet telecommunication network used by DCLUX to provide the Service to the Customer.
- Domain Name means the Internet address registered and maintained by the Customer and necessary for several services offered by DCLUX.
- Email Address means a mailbox identifier provided by DCLUX as part of the Email Services.
- End-User means any person or entity that receives or uses the Service, irrespective of whether such person or entity is authorized by the Customer to receive or use the Service.
- Firewall Service means the technological tool aimed at preventing unauthorized or unwanted communications between the Customer Infrastructure and third parties provided by DCLUX as part of the Managed Hosting Services.
- Hardware means the servers, computers system and connecting lines and cables installed in the Rack Space within the scope of the Colocation Services.

- Monthly Fee means the recurring fees invoiced to the Customer by DCLUX for the use and/or provision of the Service.
- Operating System means a software installed and ran on a server for efficient execution of various application software.
- Order Form means the part of the Agreement that shall be executed by DCLUX and the Customer and, which among other things, identifies the Service to be provided as well its technical specifications.
- Party or Parties means the Customer or DCLUX individually or both collectively.
- Payment shall mean definitive receipt of the sums due by the Customer on DCLUX' account.
- Power Supply means the electrical power provided by DCLUX to the Customer as part of the Service.
- Rack Space means a designated area in the Datacenter.
- Remote Access Service means the secured distant access to the Customer Infrastructure services offered by DCLUX as part of the Managed Hosting Services.
- Service or Services mean any service or equipment referenced in DCLUX offering and provided by DCLUX
- Service Level Agreement means the agreement setting forth the service level commitment and guaranties applicable to a Service.
- Service Start Date means the date when DCLUX notify the Customer that the Service is available for their use.
- Shared Rack Space means a designated area shared by several customers of DCLUX in the Datacenter
- Specific Terms and Conditions mean the terms and conditions additional to these General Terms and Conditions which apply to a Service ordered or used by a the Customer.
- Underlying License or Lease means the agreement between DCLUX and the Datacenter landlord.
- VPN Service means the secured private communication network service offered by DCLUX as part of the Managed Hosting Services.
- Working Day means a normal workday within the meaning of Luxembourg civil law, excluding, among others, weekends and legal holidays.
- Yearly Fee means the recurring fees invoiced to the Customer by DCLUX for the use and/or provision of the Service

Article 1. General information

1.1 The main objective of these General Terms and Conditions is to set forth the conditions under which DCLUX provides the Services to the Customer.

1.2 The Customer expressly acknowledges having read and understood these General Terms and Conditions as well as any document comprising the Agreement. The same shall apply to any third party to whom the Customer will make directly or indirectly benefit from the Service. By placing an order using the Order Form, the Customer accepts the Agreement in its entirety and without reservation. The Agreement shall remain in effect for the entire term of the contractual relationship and any events or circumstances arising there from.

Article 2. Establishment of the contractual relationship

2.1 Order Form

The offering, provisioning and delivery of the Services are subject at all times to the receipt and acceptance by DCLUX of an Order Form subject to the terms and conditions described below.

The Customer's request for Services is embodied by completion of an Order Form available on request to DCLUX. Pursuant to Article 2 hereof, submission of an Order Form to DCLUX constitutes acceptance of the Agreement terms by the Customer in their entirety without any possibility of withdrawing such acceptance in whole or in part.

In addition, by submitting the Order Form, the Customer implicitly accepts in advance and without reservation the legal, administrative and technical rules and regulations that are applicable to the Service specified in the Order Form submitted by the Customer.

Notwithstanding the foregoing, if the Customer receives and uses Services without a duly executed Order Form as, the Customer nevertheless shall be deemed to have accepted, and therefore will be bound by, all the applicable terms and conditions pertaining to the Services received and used.

2.2 Conclusion of the contract

The Order Form executed by the Customer (who shall have full legal competence to enter into a contract) shall only constitute a definitive order upon payment in full of the required emoluments for the Services.

The Customer shall receive a confirmation of receipt of his order within a reasonable delay except insofar as DCLUX declines to accept the order for reasons specified herein or for any other cause deemed reasonable by DCLUX. The Customer shall be deemed implicitly to have received such confirmation pursuant to the provisions of Section 2.3 below.

With regard to any territoriality issue that may arise hereunder, the Agreement shall be deemed to have been concluded at the DCLUX head office, as indicated in the Definitions Section herein.

The Customer agrees that performance of the Service shall begin prior to the conclusion of the legally allowable cancellation period, which means that the Customer will not be able to cancel the order after having submitted it.

DCLUX hereby expressly stipulates that for the purposes hereunder, the Customer is the natural or legal person that executes the Order Form. If a Customer acts on behalf of a legal person, the Customer shall nonetheless be responsible for such legal person's compliance

with and fulfillment of the terms of the Agreement, as well as for the payment of any invoice arising from any order that the Customer may have placed.

2.3 Handling of Customer Details and acceptance thereof

The Customer agrees that proper communication between them and DCLUX on a regular basis is essential to its proper use (including passive use) of the Services. Accordingly, the Customer must properly consult and acknowledge any relevant information transmitted by DCLUX.

To this end, and in order to allow DCLUX to reach the Customer as well as to provide the Services in a proper manner, the Customer agrees to provide DCLUX with current and updated address information. Such information shall consist of the Customer's email address, postal address, valid phone number at which the Customer can be reached from 9 a.m. to 9 p.m. GMT/UT (the "Customer Details").

In accepting the General Terms and Conditions, the Customer agrees that all email sent to the Customer by DCLUX shall be deemed to have been received and read, immediately upon error-free transmission of such email to the email address provided by the Customer in his Order Form by DCLUX' SMTP server.

Article 3. Services Limitations and suspension

3.1 Availability of the Datacenter and DCLUX Network

The Service provision is subject to the availability of all necessary facilities, including those acquired, leased or rented by DCLUX from other entities (the "Facilities"). DCLUX may, at its sole discretion, decline to accept a Service order if it determines that, based on its existing Facilities at the time of the order and its current and forecasted need to provide other Services, it requires the available Facilities for other Service needs. DCLUX may therefore limit its provisioning of Service, if necessary, in order to manage the DCLUX Network and any necessary operation in an efficient manner and to meet the reasonable Service expectations of its existing and future customers based on current and projected available Facilities capacity. In addition, DCLUX may restrict or allocate the Service among customers, when necessary, due either to Facilities shortages or causes beyond the DCLUX control.

Unless otherwise expressly agreed by the Parties and specified in the Order Form the Datacenter and more generally the Facilities used to provide the Service shall be of DCLUX exclusive choosing. In no event will title to any of the Facilities used to provide the Service vest in the Customer.

3.2 Services Modification or Addition

Any modification or addition of the Services requested after the signature of the Agreement but in the framework of the Agreement shall be subject to a written acceptance of DCLUX and governed by the same General Terms and Conditions and Specific Conditions as set forth in the Agreement, unless otherwise agreed between the Parties.

In its sole discretion and without liability to the Customer, DCLUX may: (a) alter the methods, processes or suppliers by or through which it provides the Service; (b) change the Facilities used to provide the Service; or (c) substitute comparable Service for that being provided to the Customer. If necessary due to the potential impact on affected customers, DCLUX will provide prior notice of any alterations, changes or substitutions.

3.3 Services Suspension

DCLUX may, without notice and without incurring any liability, discontinue the provision of the Service if: (a) it determines such action is necessary to (i) prevent or protect against fraud, tricks, tampering, schemes, false or invalid numbers, false credit devices, electronic devices, or any other fraudulent means or devices, (ii) protect its personnel, agents, facilities or services, or (iii) protect against actual or potential adverse financial effects; (b) in case of legal obligation, judicial or governmental request, or request from a duly competent regulatory or administrative authority (c) in case of urgent work in the Datacenter and/or on the DCLUX Network (d) the Customer fails or refuses to provide information regarding the Customer's creditworthiness, its past or current use of the Services, the jurisdictional nature or characteristics pertaining to its use or planned use of the Service; (e) the Customer provides false information to DCLUX regarding the Customer's identity, address, creditworthiness, past or current use of the Service, or the jurisdictional nature or characteristics pertaining to its use or planned use of the Service; (f) if DCLUX has reasonable grounds to believe that the Customer uses or threatens to use the Service in a fraudulent and/or unlawful and/or criminal manner or in a manner which could prejudice DCLUX, especially but not limited to, in case of possible infringement of Articles 383, 454 and following of Criminal Code of Luxembourg (Code Pénal luxembourgeois) (g) if the Customer becomes insolvent, makes assignments for the benefit of creditors, files for bankruptcy or reorganization, fails to discharge an involuntary petition for bankruptcy within the time permitted by law, or otherwise abandons the Service, (h) in case of Force Majeure, as defined in Section 19 hereafter.

Notwithstanding the foregoing, DCLUX shall make its best efforts to notify the Customer of the suspension within a reasonable prior delay. Additionally, DCLUX shall make its best efforts to limit the suspension period.

3.4 Condemnation or Loss of the Datacenter

DCLUX may, with notice to the Customer, suspend or terminate the Service following the condemnation of any material portion of the Facilities used to provide the Service or if a casualty renders all or a material portion of such Facilities inoperable and beyond feasible repair.

3.5 Customer's Obligation To Pay

The suspension of the Service pursuant to this Section 3 does not relieve the Customer of its obligation to pay DCLUX for the Service provided up to the time of suspension. If the Service is suspended by DCLUX for cause before the Customer has fulfilled their Initial or any Renewal Term, or during any Service plan to which special charges apply, the Customer will be obligated to pay DCLUX as if it had terminated the Service for its convenience.

In all instances, DCLUX shall not be held responsible or liable for any consequences and /or damage that the Customer may suffer due to a Service suspension.

Article 4. Services Continuity

DCLUX shall guarantee the continuity of the Services only pursuant to the limits and conditions provided for by the SLA signed between the Parties. If the Parties have not signed any SLA, DCLUX shall act as a professional IT service provider but shall not guarantee the continuity of the Services or their performance.

Article 5. Facilities and Equipment provided to the Customer

5.1 Facilities and Equipment

DCLUX will use reasonable efforts to maintain the Facilities and Equipment provided to the Customer as part of the Service. Without the prior written consent of DCLUX, Customer may not rearrange, disconnect, remove, attempt to repair, or otherwise interfere with any of the Facilities or Equipment installed by DCLUX in the course of provisioning the Service, nor may it permit others to do so.

5.2 Title to the Facilities and the Equipment

The Facilities and the Equipment used to provide the Service shall remain the sole and exclusive property of DCLUX or its assignee(s). The Facilities and the Equipment shall at all times be and remain personal property notwithstanding any attachment or embedding in realty. DCLUX will endeavor to affix identifying plates, tags or labels on the Facilities and Equipment disclosing DCLUX' ownership thereof. The Customer shall not tamper with, remove, or conceal such identifying plates, tags or labels. Upon reasonable notice, DCLUX may access its Facilities and Equipment on the Customer's premises and replace or remove said Facilities or Equipment at any time.

5.3 Use of the Datacenter and Equipment

The Customer will act in the Datacenter and operate the Equipment in accordance with instructions provided by DCLUX or its agent including but not limited to the Access Agreement.

5.4 Return of the Equipment

Within ten (10) days of the termination of the Service, the Customer will return to DCLUX the Equipment within the Customer's control. The Equipment shall be in the same condition as when originally delivered to the Customer, ordinary wear and tear excepted. If the Customer fails to return the Equipment, the Customer, upon demand, will reimburse DCLUX for the replacement cost of the Equipment, plus any costs reasonably incurred by DCLUX in seeking to recover its property.

Article 6. Support service

6.1 Any request from the Customer for technical support shall be sent to DCLUX, by email at the following address: support@support.dclux.com.

6.2 Unless otherwise agreed between the Parties and specified in the Order Form, DCLUX shall provide support during Working Days only, between 8 a.m. to 12 a.m. and between 1 p.m. and 5 p.m. (« Support Hours ») and if possible during the Working Day following the day during which the request has been received.

6.3 DCLUX supports shall be covered through a ticket system. For every half Support Hour, one ticket will be charged. Every started half Support Hour is due in full. The cost of each ticket shall be specified in the Order Form.

6.4 While providing support services, DCLUX shall use its best efforts but shall not guarantee any result.

Article 7. Tariff, Invoicing, Payment

7.1 General provisions

Unless otherwise specified, all prices are net, in euro (EUR) and exclusive of VAT. VAT, all similar taxes and all payment costs shall be paid by the Customer. DCLUX reserves the right to adapt prices at any time to take into account any factor such as any new or modified requirements imposed by its suppliers, any monetary parity that may take effect, or any

supplementary taxes that may be levied. DCLUX shall inform the Customer of such adaptations, if possible prior to their application. Prices shall be subject to change pursuant to any change of the Luxembourg's cost of living index (« Indice des Prix à la Consommation National – IPCN” - 01.01.1948 = 100) published by Statec (Service central de la statistique et des études économiques) and will track future changes of the same index. DCLUX may modify the applicable fees and charges on not less than fifteen (15) days prior notice to the Customer. Except as expressly provided otherwise in an Order Form, the rates and fees for the Service shall be effective during the Initial Term of the Service and during any automatic renewal term. For any yearly Service, every year started is due in full. For any monthly Service, every started month is due in full. For any Service paid per hour, every started hour is due in full.

7.2 Recurring Fee

For the provision of the Service, the Customer shall pay a recurring fee (the «Recurring Fee»). The Recurring Fee is based on the Service selection made by the Customer in their Order Form.

7.3 Non-Recurring Fee

The Customer shall pay one-time fee for the Service including, but not limited to, fees for the Service installation, or any special fees for which the Customer becomes responsible at the time the Order Form is accepted by DCLUX. (the «Non-Recurring Fee»)

7.4 Fees imposed By Other Suppliers

If an entity imposes fees on DCLUX in connection with the provisioning of the Service to the Customer, such fees will be invoiced by DCLUX on a pass-through basis to the Customer.

7.5 Invoicing and Payment

The Recurring and Non-Recurring Fees are due from the Service Start Date. The Recurring Fee shall be charged at the beginning of each month and/or year in advance.

The Power Supply consumption shall be either charged in advance, based on an estimated consumption of the Customer and adjusted on a quarterly basis by comparing the estimated consumption and the actual consumption, or on principle on a quarterly basis. The Customer accepts that the invoicing frequency may be changed at any time by DCLUX.

The installation costs shall be invoiced in full on the Order Form acceptance date.

The DCLUX support services shall be charged after the intervention or after closing of one or several intervention tickets mentioned in Section 6 here above.

Unless otherwise agreed in writing by the Parties all payment shall be made within thirty (30) days following the date specified on the invoice. (the “Payment Deadline”)

Payment of the invoices shall be made at the head office of DCLUX and in euro (EUR). Any additional fee attached to the payment shall be at Customer's expense. Foreign payments shall be carried out at the transferor's expense (for example, foreign bank transfers shall bear the indication “our cost” or “OUR”). The net amount received by DCLUX shall be strictly equal to the price due by the Customer.

7.6. Payment Delay

Any invoice or amount not paid upon falling due shall be subject, without formal notice, to interest charges amounting to 10 percent of the unpaid amount, until the outstanding amount is paid in full.

Additionally DCLUX shall be entitled without formal notice to (a) invoice administrative costs amounting to seventy-five euros (75 EUR) by overdue invoice and (b) suspend the Services and/or (c) terminate the Agreement, with retention of the Customer Hardware without reimbursement of all sums already paid, even in advance.

7.7 Customer Responsibility for Payment

The Customer shall pay DCLUX for the Services at the applicable Recurring, Non- Recurring and usage rates and fees established from time to time by DCLUX. The Services requested by the Customer in their Order Form shall identify the type and quantities of the Service desired, the location(s) at which the Service is to be provided, the requested term of the Service and such other information required by the DCLUX to provision and invoice the Service.

7.8 Invoicing Errors

DCLUX' obligation with respect to any errors resulting in the Customer overpayments for the Service is limited to granting invoice credits equal to the amounts erroneously billed. Under no circumstance will any invoicing error affect the Customer's obligation to pay for the Services rendered and used.

Article 8. Invoicing disputes

8.1 The Customer may withhold payment of any disputed fee in an amount not to exceed twenty (20) percent of the total amount billed on the invoice containing the disputed charge if the Customer: (a) pays all undisputed charges on or before the Payment Deadline; and (b) notifies DCLUX on or before the Payment Deadline of the dispute and provides with its notification information sufficient to allow DCLUX to investigate the Customer's claim.

The Customer also may dispute any invoiced charge after the Payment Deadline without right of withholding any payment, by notifying DCLUX in writing and providing information sufficient to allow DCLUX to investigate the Customer's claim, provided the Customer's notification is received by DCLUX within sixty (60) days of the date of the invoice on which the disputed charge occurs.

In all instances involving a disputed charge, the parties will cooperate in good faith to resolve the dispute within thirty (30) days of DCLUX' receipt of the Customer's notification. If a dispute is not resolved within that period, either DCLUX or the Customer may refer the dispute to the Luxembourgish Chamber of Commerce Arbitration Court.

8.2 If any disputed amount for which the Customer has not made payment is determined to have been a correct or proper charge, interest, amounting to ten (10) percent of the disputed amount may be charged by DCLUX.

All invoiced charges shall be deemed to be correct and indisputable sixty one (61) days after the date of the invoice on which they appear.

Article 9. Customer's Responsibility and Indemnification

9.1 The Customer shall be solely responsible or liable for all damages of any kind, direct or indirect, that DCLUX or any third party may suffer, as a result of, partly or entirely, a violation by the Customer of his contractual, legal, statutory, administrative obligations, and/or a defect, latent defect or dysfunction of any kind of the Customer Hardware, and/or a defect, latent defect or dysfunction of the Customer's Infrastructure, and/or any act, negligence, omission, fault of the Customer, their employees, agents, sub-contractors, providers, or of anyone to whom the Customer has given, voluntary or not, physical or network access to the Customer Hardware and/or DCLUX facilities and/or Equipment and/or Network.

9.2 The Customer shall indemnify DCLUX for all damages pointed out in Section 9.1, including but not limited to all indemnities, attorney's fees and court costs that DCLUX has to pay as the result of such damages, even if an amicable settlement is reached between the Parties or between an injured third party and the Customer or an injured third party and DCLUX.

Article 10. Property Retention

Any product purchased by the Customer from DCLUX shall remain DCLUX' property until reception by DCLUX of the payment of the entire purchase price including all interests, costs and incidental expenses.

Article 11. Term and termination effects

11.1 Termination and Renewal

The initial term of the Service shall be as set forth in the Order Form ("Initial Term") and shall begin on the Service Start Date. If no Initial Term is set forth in the Order Form, the Initial Term of the Service shall be one (1) year. If neither the Customer nor DCLUX cancels or terminates the Agreement before the end of the Initial Term or any renewal term, the Agreement, unless otherwise provided in the Order Form, shall automatically renew for an identical term pursuant to the rates, terms and conditions contained in the Agreement.

If the Customer notifies DCLUX of its intent to terminate the Agreement, the actual termination of the Agreement will not occur until at least thirty (30) days after receipt of the Customer's notification. If the Customer has chosen to subscribe to the Service for a minimum term or for a minimum committed usage amount, and the Customer terminates the Agreement before the end of the Initial Term or any renewal term before satisfying the minimum, or if the Agreement is terminated by DCLUX for cause, the Customer shall be subject to an applicable early-termination fee or committed usage amount shortfall fee amounting at least to the sum of the Recurring Fees to be paid until the anniversary date of the current Contractual Period. If the term of the Agreement is monthly, either party may terminate the Agreement by providing the other party with written notice of termination at least thirty (30) days prior to the intended termination date.

11.2 Customer Default and Cancellation prior to the Service Start Date

Except as otherwise expressly provided in the Order Form or associated service order document, such as the Access Agreement, if the Customer, without any express right to do so, cancels, changes or breaches the Agreement after its execution but prior to the Service Start Date, the Customer shall pay DCLUX an amount equal to: (a) all Non-recurring Fees incurred by DCLUX up to the date of cancellation; plus (b) two (2) months of the forecasted Monthly Recurring Fees.

11.3 Customer Default and Cancellation after the Service Start Date

Except as required by law or regulation, or except as otherwise expressly provided in the Order Form, if, after the Service Start Date, the Customer fails to pay any amount required under the Agreement when payment is due, DCLUX may suspend any and all Service provided by DCLUX to the Customer pursuant to this Agreement or any other service agreement, if payment is not received from the Customer within a time period established in a notice of suspension letter sent to the Customer.

If, following the suspension of the Service, the Customer fails to pay all amounts required under the Agreement within ten (10) days of the date of a notice of termination letter sent to the Customer DCLUX will terminate all the Services and underlying agreements.

If, after the Service Start Date, the Customer fails to comply with any other material term of the Agreement, and such failure continues for thirty (30) days after written notice thereof from DCLUX to the Customer, DCLUX will terminate the Services and underlying agreements.

11.4 Customer Hardware removal

Upon termination, the Customer, at its expense, will receive written notice from DCLUX establishing a time period within which the Customer must remove the Customer Hardware from DCLUX premises. The Customer Hardware not timely removed shall be deemed to

have been abandoned by the Customer and shall become the property of DCLUX to do with as it sees fit.

Article 12. DCLUX Responsibility – Indemnification (liability and warranty)

12.1 Direct and indirect damages

Even if advised of the possibility of losses or damages, DCLUX shall not be liable, except as set forth herein, for any losses or damages resulting from: (a) its provisioning of the Service to the Customer; (b) any act or omission of the Customer, those using the Customer's Service or third party entities providing products used in connection with the Service; or (c) the loss or destruction of the Customer data resulting from the use of the Service.

DCLUX shall solely be liable to the Customer for any property damage to the Customer premises caused by its gross negligence or willful misconduct but in no event shall DCLUX liability be greater than an amount equal to the sum of the payments made by the Customer to DCLUX during the three months immediately preceding the event for which losses or damages are claimed. By entering into the Agreement and remaining a DCLUX' customer, the Customer manifests its acceptance of this limitation on direct damages as fair and reasonable.

12.2 Service Interruptions

DCLUX' liability for the Service interruptions, if any, shall be limited to credit outage allowances expressly provided for in the applicable Service Level Agreement.

12.3 Delays

DCLUX shall not be liable to the Customer for losses or damages resulting from its inability to provide the Service or from any delay in meeting a scheduled Service Start Date. If there is a delay in the Service installation, the Customer's exclusive remedy is set forth in the applicable Specific Terms and Conditions.

12.4 Facilities, Services, Equipment or Systems of third parties

DCLUX shall not be liable for the unavailability, or deficient performance, of any facilities, services, equipment or systems used in connection with the provision of the Services that are under the control of the Customer or any third party, even if DCLUX has acted as the Customer's agent in procuring such facilities, services, equipment or systems from third parties. The Customer's rights with regard to the unavailability or deficient performance of such Facilities, services, equipment or systems not provided by DCLUX shall be strictly as established by the supplying entity.

12.5 "Online" Services

All "Online" Services are provided "AS IS." The Customer acknowledges and agrees that communications and transactions conducted "online" may not be secure; that system failures may limit the Customer's access to and use of "online" Services; and that "online" Services are not guaranteed to be error free. By subscribing to and using "online" Services, the Customer manifests its acceptance of all the risks associated with the use of "online" Services, specifically, and the Internet, generally.

12.6 Customer's Failure to Fulfill Obligations

DCLUX shall not be liable to the Customer or any third party for the Customer's failure to fulfill its obligations, including, without limitation (a) obtaining, installing and maintaining all necessary equipment, materials, and supplies for interconnecting the Customer or third-party facilities, services, equipment or systems to the Services (b) securing all licenses, permits, approvals, rights-of-way, access rights, including ingress and egress from buildings, and other arrangements necessary to install, receive and use the Services; (c) ensuring that the

Customer or third-party facilities, services, equipment or systems interface properly with the Services (d) ensuring that the signals delivered to the Service are fully compliant with industry standards and that such signals do not damage DCLUX' property or personnel, or degrade the Service to other DCLUX' customers.

12.7 Misuse of Customer Service

DCLUX shall neither provide credit allowances nor be liable for the use, misuse or abuse of the Service by the Customer, its agents, employees or any third parties. If DCLUX co-operates with the Customer by recommending potential solutions to reduce or eliminate the unauthorized use of the Service, DCLUX undertakings shall not be deemed to be promises or guarantees by DCLUX that the unauthorized use of the Service will be reduced or eliminated, and in no event shall DCLUX incur any liability in connection with those undertakings to the Customer or any third party. In all instances, the Customer shall be responsible for its facilities, services, equipment or systems interconnected with the Service.

Article 13. Customer obligations

13.1 Use and Maintenance of the Services and the Equipment

If the Customer, its agent or contractor fails to operate and maintain the Datacenter or any Facilities provided by DCLUX, services, equipment and systems interconnected with the Service, with the result that there is harm or imminent harm to DCLUX, the Services or other customers, DCLUX may require the Customer, at its expense, to acquire, install and use protective equipment designed to eliminate such harm. If the protective equipment fails to eliminate the harm, DCLUX, following the delivery of written notice to Customer, may suspend or terminate the Service, without any liability or further obligation to the Customer.

13.2 Notice of Claims and Problems

The Customer shall immediately notify DCLUX upon receipt of any information that might adversely affect DCLUX, including, but not limited to, notices of any claims or proceedings that involve the Service, and the Customer shall promptly notify DCLUX of any problem relating to the Service or the Service performance and reasonably cooperate with DCLUX in repairing the Service problem.

13.3 Co-operation on Audits

If another carrier or regulatory agency seeks to audit DCLUX and in particular part of, or the whole Service provided under the Agreement, the Customer will co-operate in any such audit investigation.

Article 14. Customer notification and declaration

14.1 Compliance with laws and regulatory statutes currently in force

The Customer shall take every steps necessary to ensure that their use of the Service does not violate any law or regulatory statute currently enforceable in Luxembourg or elsewhere pertaining to public order, public security and public decency. Pursuant to Article 14 hereof, the Customer shall be solely responsible for any violations of such rules or laws.

The Customer shall refrain from using the Service for any illicit purpose such as but not limited to, the hosting of illicit material, the use of any false identity to defraud others ... Pursuant to Article 14 hereof, the Customer shall assume sole responsibility for the consequences of any improper activities, which are beyond DCLUX' control from all standpoints including technical.

The Customer shall refrain from sending any email containing or suspected of containing viruses such as Trojan horses, worms, time bombs or any other computer program that could damage the computer operating system of any content recipient. DCLUX may suspend the Service if the Customer uses or misuses the Service in a manner that results, or could result, in network blockage or other degradations that adversely affect the Service provided to the Customer or to other existing or prospective customers of DCLUX.

The Customer shall abide by any law or statutory regulation to which the Customer may be subject by virtue of the Customer's use of the Service.

DCLUX may suspend the Service if the Customer uses, or threatens to use the Service for any unlawful purpose or otherwise violates the terms of the Agreement.

14.2 Terms and conditions pertaining to the use of services in the information society

In using the Service, the Customer shall abide by all applicable electronic commerce statutes, including in particular Luxembourg's law of 14 April 2000 on electronic commerce including explicitly the regulations therein pertaining to spamming, as well as European Community directives (irrespective of whether they have been transposed into national law) currently in force pertaining to electronic signatures, electronic commerce and protecting data privacy.

14.3 Third party rights

In realizing any operation relating to the Service, the Customer shall not infringe the rights of others. Pursuant to Section 14 hereof, the Customer shall assume sole responsibility for the consequences of any infringement of third party rights.

Specifically, the Customer shall be solely responsible for its use of the Service towards third parties, and shall bear sole responsibility for any infringements of, among others, personality rights, intellectual property rights, distinctive and pre-existing marks, commercial names, trade names or any copyright or industrial property rights.

Hence, it shall be the sole responsibility of the Customer to conduct any research regarding the antecedents of any distinguishing marks, trade names and the like before placing an order, and more generally to ensure that their intended use of the Service does not infringe any third party rights.

Article 15. Confidential Information

The Customer acknowledges that in connection with the Agreement it will have access to certain confidential and proprietary information of DCLUX ("Confidential Information"). Confidential Information includes information either marked as confidential or information known by the Customer as being treated by DCLUX as confidential. The Customer agrees to keep Confidential Information confidential and not to use such information except as authorized by this agreement or otherwise authorized by DCLUX, and to accord to such information the same standards and protections that it uses to protect its own confidential business information. The Customer shall limit dissemination of Confidential Information to its employees, contractors, or agents who reasonably require access in order to carry out the terms of this agreement and now have been informed of an obligation to maintain confidentiality. Except for Confidential Information necessary to performance of obligations or exercise of rights under the Agreement, materials or documents containing Confidential Information will be returned to DCLUX promptly following written requests thereof.

Confidential Information will not include information: (a) that is now or becomes generally available to the public through no fault or breach by the Customer; (b) that the Customer can document was already known to it prior to disclosure by DCLUX; (c) that was independently developed by the Customer without use of any of DCLUX' Confidential Information; and (d) that The Customer rightly obtained from a third-party who had the right to transfer or disclose it. If the Customer is subpoenaed or ordered by any court or a governmental agency to disclose Confidential Information, it will provide prompt written notice to DCLUX so as to allow DCLUX to seek a protective order to protect the confidentiality of such information.

Article 16. Intellectual Property

Each party acknowledges: (a) that any and all patents, registered and unregistered designs, copyrights, trademarks and all other intellectual property rights whatsoever, which are used in connection with the Service shall remain the sole property of the entitled owner of such rights or its subcontractors; and (b) that it shall not be entitled to use the name, trademarks, trade names or other proprietary identifying marks or symbols of the other without its prior written consent.

Article 17. Personal Data

Personal data pertaining to the Customer will be stored in DCLUX files in a secure location, under its control. The Customer can exercise its right to access and correct such data by contacting DCLUX in writing. DCLUX shall not store such data any longer than is necessary for the efficient execution of the Agreement.

The Customer expressly authorizes DCLUX to process such data for purposes of running its customers database, to guaranty the transparency of the system if needed with regard to any applicable rule and to transmit such data in accordance with a legal obligation, a judicial or governmental request or a request from a duly competent regulatory or administrative authority.

Article 18. Waiver

Any delay or omission in the exercise of a right under the Agreement shall not be deemed a waiver of this right. A waiver of a right is only valid with written consent of the Party who waives that is signed by a duly authorized representative of this Party.

Article 19. Force Majeure

DCLUX shall not be responsible for any delay or non-performance resulting from any event of force majeure as the latter is commonly defined by custom, law and the courts, or for any outage in any electrical grid, telecommunications or Internet system. Furthermore, are included in the list of force majeure events (non exhaustive list) any circumstance over which DCLUX has no sole and direct control and any event that leads to economic imbalance for DCLUX preventing the continuity of the Agreement in the same conditions. If DCLUX fails to fulfill his contractual obligations due to a Force majeure event, DCLUX shall inform the Customer as soon as possible. The Service shall be suspended from the appearance of the force majeure event until its disappearance.

Article 20. Survivability

The terms and conditions contained in the Agreement that, by their sense and context, are intended to survive the performances of the parties shall survive the completion of those performances and the Agreement's termination. These include, without limitation, the making of payments due under the Agreement.

Article 21. Severability

Should any term or provision of this Agreement be declared invalid or unenforceable, that term or provision will be construed consistent with applicable law as nearly as possible to reflect the original intentions of the parties, and the remaining terms and provisions will remain in full force and effect.

Article 22. Non Agency

Nothing contained in this Agreement shall be construed as creating any agency, partnership or other form of joint enterprise between the Customer and DCLUX.

Article 23. Notices

All notices, requests or other communications hereunder shall be in writing, addressed to the parties at the address indicated on the Order Form. Notices mailed by registered or certified mail shall be deemed to have been received by the addressee on the 5th business day following the mailing or sending thereof. Notices sent by facsimile shall be deemed to have been received when the delivery confirmation is received.

Article 24. Assignment

Neither party may assign this agreement, in whole or in part, without the other party's written consent. Any attempt to assign this Agreement without such consent will be null and void and may result in this agreement being void.

Article 25. Non-exclusivity

Each party understands that this Agreement is non-exclusive. Without limiting the generality of the foregoing, the Customer acknowledges that nothing in this Agreement shall prevent or limit DCLUX from marketing and selling its products or services, in whole or in part, directly or indirectly, to any prospective customers or from appointing representatives, resellers, distributors and other marketing agents, without liability to the Customer.

Article 26. Applicable law and jurisdiction

This Agreement is subject to Luxembourg Law, and any disputes will be resolved in the appropriate Luxembourg Court.